

**BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation
Against:**

ALLEN HOWARD GREEN, M.D.

**Physician's and Surgeon's
Certificate No. G 63445**

File No. 04-1999-96091

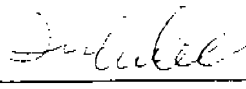
DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on September 21, 2000.

IT IS SO ORDERED August 22, 2000.

MEDICAL BOARD OF CALIFORNIA

By: 
**Ira Lubell, M.D., Chair
Panel A
Division of Medical Quality**

1 BILL LOCKYER, Attorney General
of the State of California
2 SAMUEL K. HAMMOND, State Bar No. 141135
Deputy Attorney General
3 California Department of Justice
110 West A Street, Suite 1100
4 Post Office Box 85266
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6 Attorneys for Complainant
7

8 **BEFORE THE**
9 **DIVISION OF MEDICAL QUALITY**
10 **MEDICAL BOARD OF CALIFORNIA**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

11 In the Matter of the **Accusation**) CASE NO. 04-1999-96091
Against:)
12)
13 **ALLEN HOWARD GREEN, M.D.**) **STIPULATED SETTLEMENT**
18153 Brookhurst Street) **AND**
Fountain Valley, CA 92708) **DISCIPLINARY ORDER**
14)
Physician's and Surgeon's)
15 Certificate No. G 63445)
16 Respondent.)

17
18 **IT IS HEREBY STIPULATED AND AGREED** by and between the
19 parties to the above-entitled proceedings that the following
20 matters are true:

21 1. An Accusation in Case No. 04-1999-96091 was filed
22 with the Division of Medical Quality, of the Medical Board of
23 California, Department of Consumer Affairs (the "Division") on
24 March 1, 2000, and is currently pending against Allen Howard
25 Green, M.D. (the "respondent").

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1 2. The Accusation, together with all statutorily
2 required documents, was duly served on the respondent on or about
3 March 14, 2000, and respondent has filed a Notice of Defense
4 contesting the Accusation. A copy the Accusation is attached as
5 Exhibit "A" and hereby incorporated by reference as if fully set
6 forth.

7 3. Complainant, Ron Joseph, is the Executive Director
8 of the Medical Board of California and brought this action solely
9 in his official capacity. The Complainant is represented by the
10 Attorney General of California, Bill Lockyer by and through
11 Deputy Attorney General Samuel K. Hammond.

12 4. At all times relevant herein, respondent has been
13 licensed by the Medical Board of California under Physician's and
14 Surgeon's Certificate No. G 63445. Respondent is represented in
15 this matter by Richard Dale Jackson, Esq., 120 Fisherman's Wharf,
16 Redondo Beach, California 90277.

17 5. Respondent and his attorney have fully read and
18 discussed the charges contained in the Accusation. Respondent
19 has been advised of his rights and the effects of this Stipulated
20 Settlement and Disciplinary Order.

21 6. Respondent understands the nature of the charges
22 alleged in the Accusation and that, if proven at hearing, the
23 charges and allegations would constitute cause for imposing
24 discipline upon his Physician's and Surgeon's Certificate.
25 Respondent is fully aware of his right to a hearing on the
26 charges contained in the Accusation, his right to confront and
27 cross-examine witnesses against him, his right to the use of

1 subpoenas to compel the attendance of witnesses and the
2 production of documents in both defense and mitigation of the
3 charges, his right to reconsideration, court review and any and
4 all other rights accorded by the California Administrative
5 Procedure Act and other applicable laws.

6 7. Respondent knowingly, voluntarily and irrevocably
7 waives and gives up each of these rights.

8 8. For the purpose of this stipulation, respondent
9 admits as true, the allegations and charges in the Accusation,
10 and further agrees he has subjected his Physician's and Surgeon's
11 Certificate to disciplinary action. Respondent agrees to be
12 bound by the Division's Disciplinary Order as set forth below.

13 9. The admissions made by respondent herein are for
14 the purpose of this proceeding and any other proceedings in which
15 the Division of Medical Quality, Medical Board of California, or
16 other professional licensing agency is involved, and shall not be
17 admissible in any other criminal or civil proceedings.

18 Parties agree that facsimile copies of this stipulation in
19 settlement, including signatures of the parties, may be used in
20 lieu of the original documents and signatures. The facsimile
21 copies have the same force and effect as the originals.

22 10. This Stipulated Settlement and Disciplinary Order
23 is intended by the parties herein to be an integrated writing
24 representing the complete, final and exclusive embodiment of the
25 agreements of the parties.

26 11. Based on the foregoing admissions and stipulated
27 matters, the parties agree that the Division shall, without

1 further notice or formal proceeding, issue and enter the
2 following order:

3 **DISCIPLINARY ORDER**

4 IT IS HEREBY ORDERED that Physician's and Surgeon's
5 Certificate No. G. 63445 issued to Allen Howard Green, M.D. is
6 revoked. However, the revocation is stayed and respondent is
7 placed on probation for five (5) years on the following terms and
8 conditions. Within 15 days after the effective date of this
9 decision the respondent shall provide the Division, or its
10 designee, proof of service that respondent has served a true copy
11 of this decision on the Chief of Staff or the Chief Executive
12 Officer at every hospital where privileges or membership are
13 extended to respondent or where respondent is employed to
14 practice medicine and on the Chief Executive Officer at every
15 insurance carrier where malpractice insurance coverage is
16 extended to respondent.

17 1. **CLINICAL TRAINING PROGRAM - PACE PROGRAM:** Within
18 four (4) months of the effective date of this decision,
19 respondent shall, at his own expense, enroll in the Physician
20 Assessment and Clinical Education Program at the University of
21 California, San Diego (hereinafter "PACE") and shall undergo the
22 comprehensive assessment program including the measurement of
23 medical skills and knowledge, the appraisal of physical health
24 and psychological testing. After assessment, the PACE Evaluation
25 Committee will review all results and make a recommendation to
26 the Division or its designee, the respondent and other authorized
27 personnel as to what clinical training is required, including the

1 scope and length, treatment of any medical or psychological
2 condition, and any other factors affecting the respondent's
3 practice of medicine. The respondent shall undertake whatever
4 clinical training and treatment of any medical or psychological
5 condition as may be recommended by the PACE Program. Finally, at
6 the completion of the PACE Program, respondent shall submit to an
7 examination on its contents and substance. The examination shall
8 be designed and administered by the PACE faculty. Respondent
9 shall not be deemed to have successfully completed the program
10 unless he passes the examination. Respondent agrees that the
11 determination of the PACE Program faculty as to whether or not he
12 had passed the examination and/or successfully completed the PACE
13 Program shall be binding.

14 2. **ETHICS COURSE**: Within 60 days of the effective
15 date of the Decision, respondent shall enroll in a course in
16 Ethics approved in advance by the Division or its designee, and
17 shall successfully complete the course within the first year of
18 probation.

19 3. **COST RECOVERY**: Respondent is hereby ordered to
20 reimburse the Division the amount of seven thousand dollars
21 (\$7,000). This amount may be paid by installments provided,
22 however, that the entire amount is paid within three (3) years of
23 the effective date of this Decision. Failure to reimburse the
24 Division's cost of investigation and prosecution within the
25 specified period constitutes a violation of the probation order.
26 The filing of bankruptcy shall not relieve respondent of the

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1 responsibility to reimburse the Division for its costs of
2 investigative and prosecution costs.

3 4. **OBEY ALL LAWS:** Respondent shall obey all federal,
4 state and local laws, all rules governing the practice of
5 medicine in California, and remain in full compliance with any
6 court ordered criminal probation, payments and other orders.

7 5. **QUARTERLY REPORTS:** Respondent shall submit
8 quarterly declarations under penalty of perjury on forms provided
9 by the Division, stating whether there has been compliance with
10 all the conditions of probation.

11 6. **PROBATION SURVEILLANCE PROGRAM COMPLIANCE:** Respondent
12 shall comply with the Division's probation surveillance program.
13 Respondent shall, at all times, keep the Division informed of his
14 business and residence addresses which shall both serve as
15 addresses of record. Changes of such addresses shall be
16 immediately communicated in writing to the Division. Under no
17 circumstances shall a post office box serve as an address of
18 record.

19 Respondent shall also immediately inform the Division,
20 in writing, of any travel to any areas outside the jurisdiction
21 of California which lasts, or is contemplated to last, more than
22 30 days.

23 7. **INTERVIEW WITH THE DIVISION, ITS DESIGNEE OR ITS DESIGNATED**
24 **PHYSICIAN(S):** Respondent shall appear in person for interviews with
25 the Division, its designee or its designated physician(s) upon
26 request at various intervals and with reasonable notice.

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1 8. TOLLING FOR OUT-OF-STATE PRACTICE, RESIDENCE OR IN-STATE NON-
2 PRACTICE: In the event respondent should leave California to
3 reside or to practice outside the State or for any reason should
4 respondent stop practicing medicine in California, respondent
5 shall notify the Division or its designee in writing within ten
6 (10) days of the dates of departure and return or the dates of
7 non-practice within California. Non-practice is defined as any
8 period of time exceeding 30 days in which respondent is not
9 engaging in any activities defined in Sections 2051 and 2052 of
10 the Business and Professions Code. All time spent in an
11 intensive training program approved by the Division or its
12 designee shall be considered as time spent in the practice of
13 medicine. Periods of temporary or permanent residence or
14 practice outside California or of non-practice within California,
15 as defined in this condition, will not apply to the reduction of
16 the probationary period.

17 9. COMPLETION OF PROBATION: Upon successful completion
18 of probation, respondent's certificate shall be fully restored.

19 10. VIOLATION OF PROBATION: If respondent violates
20 probation in any respect, the Division, after giving respondent
21 notice and the opportunity to be heard, may revoke probation and
22 carry out the disciplinary order that was stayed. If an
23 accusation or petition to revoke probation is filed against
24 respondent during probation, the Division shall have continuing
25 jurisdiction until the matter is final, and the period of
26 probation shall be extended until the matter is final.

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1 11. **PROBATION COSTS:** Respondent shall pay the costs
2 associated with probation monitoring each and every year of
3 probation, which are currently set at two thousand three hundred
4 and four dollars (\$2,304), but may be adjusted on an annual
5 basis. Such costs shall be payable to the Division of Medical
6 Quality and delivered to the designated probation surveillance
7 monitor at the beginning of each calendar year. Failure to pay
8 costs within 30 days of the due date shall constitute a violation
9 of probation.

10 12. **LICENSE SURRENDER:** Following the effective date of
11 this decision, if respondent ceases practicing due to retirement,
12 health reasons or is otherwise unable to satisfy the terms and
13 conditions of probation, respondent may voluntarily tender his
14 certificate to the Board. The Division reserves the right to
15 evaluate the respondent's request and to exercise its discretion
16 whether to grant the request, or to take any other action deemed
17 appropriate and reasonable under the circumstances. Upon formal
18 acceptance of the tendered license, respondent will no longer be
19 subject to the terms and conditions of probation.

20 **CONTINGENCY**

21 This stipulation shall be subject to the approval of
22 the Division of Medical Quality. Respondent understands and
23 agrees that Board staff and counsel for complainant may
24 communicate directly with the Division regarding this stipulation
25 and settlement, without notice to or participation by respondent
26 or his counsel. If the Division fails to adopt this stipulation
27 as its Order, the stipulation shall be of no force or effect, it

1 shall be inadmissible in any legal action between the parties,
2 and the Division shall not be disqualified from further action in
3 this matter by virtue of its consideration of this stipulation.

4 ACCEPTANCE

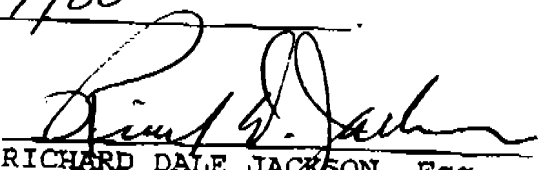
5 I have read the above Stipulated Settlement and
6 Disciplinary Order. I have fully discussed the terms and
7 conditions and other matters therein with my attorney, Richard
8 Dale Jackson, Esq. I understand the effect this Stipulated
9 Settlement and Disciplinary Order will have on my Physician's and
10 Surgeon's Certificate, and agree to be bound thereby. I enter
11 this stipulation freely, knowingly, intelligently and
12 voluntarily.

13 DATED: 7/7/00

14 
15
16 ALLEN HOWARD GREEN, M.D.
Respondent


17
18 I have read and fully discussed the terms and
19 conditions and other matters contained in the above Stipulated
20 Settlement and Disciplinary Order with respondent Allen Howard
21 Green, M.D., and approve of its content and form.

22 DATED: 7/7/00

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24
25 RICHARD DALE JACKSON, Esq.
26 Attorney For Respondent
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DATED: 7/10/00


 SAMUEL K. HAMMOND
 Deputy Attorney General
 Attorneys for Complainant

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EXHIBIT A
Accusation No. 04-1999-96091

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO *March 14, 2000*
BY *Arlene K. Spindler* ANALYST

1 BILL LOCKYER
Attorney General
2 SAMUEL K. HAMMOND
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8
9 **BEFORE THE**
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation
Against:

Case No. 04-1999-96091

13 **ALLEN HOWARD GREEN, M.D.**
14 18153 Brookhurst Street
Fountain Valley, CA 92708

ACCUSATION

15 Physician's and Surgeon's
16 Certificate No. G 63445

17 Physician's Assistant Supervisor
Approval No. SA 23117

18 Respondent.

19
20 Complainant, Ron Joseph, as cause for disciplinary
21 action, alleges:

22 **PARTIES**

23 1. Complainant is the Executive Director of the
24 Medical Board of California (hereinafter the "Board") and brings
25 this Accusation solely in his official capacity.

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2. On or about July 25, 1988, Physician's and Surgeon's Certificate No. G 63445 was issued by the Board to Allen Howard Green ("respondent"), and at all times relevant herein, said certificate was, and currently is, in full force and effect. Unless renewed, this certificate will expire on or about January 31, 2002. On or about June 30, 1994, Physician's Assistant Approval No. 23117 was issued to respondent. At all times relevant herein, said approval was, and currently is, in full force and effect. Unless renewed, the approval will expire on or about January 31, 2002.

JURISDICTION

12 3. This Accusation is made in reference to the
13 following statutes of the California Business and Professions
14 Code ("Code"):

15 A. Code section 2227 provides as relevant hereto
16 that the Division of Medical Quality of the Board
17 ("Division") may revoke, suspend for a period not to exceed
18 one year, or place on probation and order the payment of
19 probation monitoring costs, the license of any licensee who
20 has been found guilty under the Medical Practice Act.

21 B. Code section 2234 provides as relevant hereto
22 that unprofessional conduct includes, but is not limited to,
23 the following:

24 || "

25 " (b) Gross negligence.

26 " " " " "

27 C. Code section 125.3 provides as relevant
28 hereto that the Board may request the administrative law

1 judge to direct any licentiate found to have committed a
2 violation or violations of the licensing act, to pay the
3 Board a sum not to exceed the reasonable costs of the
4 investigation and enforcement of the case.

5 4. Section 14124.12 of the Welfare and Institutions
6 Code provides, as relevant hereto, that upon receipt of written
7 notice from the Board that a licensee's license has been placed
8 on probation as a result of a disciplinary action, the Department
9 of Health Services (department) of the State of California may
10 not reimburse any Medi-Cal claim for the type of surgical service
11 or invasive procedure that gave rise to the probation that was
12 performed by the licensee on or after the effective date of
13 probation and until the termination of all probationary terms and
14 conditions or until the probationary period has ended, whichever
15 occurs first. This section shall apply **except** in any case in
16 which the Board determines that compelling circumstances warrant
17 the continued reimbursement during the probationary period of any
18 Medi-Cal claim for services. In such a case, the department
19 shall continue to reimburse the licensee for all procedures,
20 except for those invasive or surgical procedures for which the
21 licensee was placed on probation.

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1 **FIRST CAUSE FOR DISCIPLINARY ACTION**

2 (Gross Negligence)

3 5. Respondent Allen Howard Green, M.D., is subject to
4 disciplinary action on account of the following:

5 A. On or about March 4, 1998, patient L.B. went
6 to respondent's offices for a physical exam. The patient
7 was menopausal and had selected respondent as a primary care
8 physician partly because respondent was recommended to her
9 as a physician who would prescribe natural hormones for her
10 menopausal condition. Respondent did not perform a physical
11 exam on this visit, however, he took a history and ordered
12 tests including, a mammogram, chest x-ray and "fasting blood
13 work." Respondent's assessment included, menopausal
14 syndrome, smoker, overweight, tension headaches (HA Tension)
15 and irritable bowel syndrome (IBS). Respondent wrote a
16 prescription for natural hormones, and requested the patient
17 make return visits for a blood draw and the physical exam.
18 For this visit, respondent billed the patient's insurance
19 company for an "intermediate visit on a new patient."

20 B. On or about March 9, 1998, the patient
21 returned to respondent's offices for the blood draw. The
22 patient's blood was drawn by respondent's staff. Before
23 leaving, the patient was given a "box" for a stool specimen.
24 Respondent sent the blood and stool samples to out-of-town
25 laboratories. Great Smokies Diagnostic Laboratory, located
26 in the state of North Carolina, performed stool tests for
27 candida, fecal occult blood, ova and parasites,
28 triglycerides, metabolic markers, chymotrypsin, valerate,

1 short chain fatty acids, cholesterol, fecal S-IgA and total
2 fecal fat.

3 C. At no time did respondent discuss the unusual
4 and extensive stool studies with the patient. Nor, did
5 respondent inform the patient that the laboratory costs
6 would be high because the laboratory tests would be
7 performed by out-of-town laboratories.

8 D. On about March 12, 1998, the patient returned
9 to respondent's offices for the physical exam. Respondent
10 noted on this date that the patient also complained of
11 bloating and cramping, pains in the left arm and left leg
12 and a headache of six days duration. Respondent performed a
13 complete physical exam. His assessment was the same as the
14 assessment on the visit of March 4, 1998.

15 E. On or about April 1, 1998, the patient
16 returned to respondent's offices to discuss the laboratory
17 results. The laboratory results from Great Smokies
18 Diagnostic Laboratory, reported on or about March 27, 1998,
19 showed the patient's stool was positive for occult blood.
20 Respondent failed to follow-up on this abnormal result.

21 F. Between April and November 1998, the patient
22 made several unsuccessful attempts to talk to respondent
23 over the telephone to discuss payment of high laboratory
24 charges. The patient was seeking some relief from
25 respondent because her insurance company deemed the
26 laboratory charges unusual and excessive and refused to pay
27 for them. Finally, respondent met with the patient on or
28 about November 3, 1998, to discuss the issue. Although

1 respondent neither examined nor treated the patient during
2 this meeting, he billed the patient's insurance company for
3 a "brief office visit."

4 G. On or about November 4, 1998, respondent sent
5 the patient a letter asking her to seek another primary care
6 physician.

7 6. Respondent Allen Howard Green, M.D., is subject to
8 disciplinary action for unprofessional conduct in that he engaged
9 in gross negligence in his care and treatment of patient L.B. in
10 violation of Code section 2234(b), in that:

11 A. Paragraph 5 of this Accusation is realleged
12 and incorporated by reference as if fully set forth.

13 B. Respondent failed to follow-up on an occult
14 positive laboratory result in a 52-year-old patient.

15 **SECOND CAUSE FOR DISCIPLINARY ACTION**

16 (Unprofessional Conduct)

17 7. Respondent Allen Howard Green, M.D., is further
18 subject to disciplinary action for unprofessional conduct in his
19 care and treatment of patient L.B. in that violation of Code
20 section 2234, in that:

21 A. Paragraph 5 of this Accusation is realleged
22 and incorporated by reference as if fully set forth.

23 B. Respondent failed to follow up on an occult
24 positive stool finding in a 52-year-old patient.

25 C. Respondent falsely billed the patient's
26 insurance company for an intermediate visit on the visit of
27 March 4, 1998.

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1 D. Respondent falsely billed the patient's
2 insurance company for an office visit on November 3, 1998.

3 E. Respondent failed to adequately inform
4 patient L.B. that the unusual stools tests he was ordering
5 would entail high laboratory costs which might not be
6 covered by her insurance.

7 F. Respondent failed to explain to patient L.B.
8 that the use of out-of-town laboratories would lead to
9 increased laboratory costs which might not be covered by the
10 patient's insurance.

11 **PRAYER**

12 **WHEREFORE**, the complainant requests that a hearing be
13 held on the matters herein alleged, and that following the
14 hearing, the Division issue a decision:

15 1. Revoking or suspending Physician's and Surgeon's
16 Certificate No. G 63445, heretofore issued to Allen Howard Green,
17 M.D.;

18 2. Revoking, suspending or denying approval of
19 respondent's authority to supervise physician's assistants,
20 pursuant to section 3527 of the Code;

21 3. Ordering respondent to pay the Board the
22 reasonable costs of the investigation and enforcement of this
23 case and, if placed on probation, the costs of probation
24 monitoring; and

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1 4. Taking such other and further action as the
2 Division deems necessary and proper.

3 DATED: March 14, 2000

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Ron Joseph
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

10 03573160-SD2000AD0105